

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:	§	
Williams, et al.	§	Confirmation No.: 6926
	§	
Serial No.: 10/690,860	§	Group Art Unit: 2435
	§	
Filed: October 22, 2003	§	Examiner: Truvan, Leynna Thanh
	§	
For: METHOD AND	§	
APPARATUS FOR	§	
CONTENT PROTECTION	§	

MAIL STOP APPEAL BRIEF-PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

The Appellant submits this Appeal Brief to the Board of Patent Appeals and Interferences on appeal from the decision of the Examiner of Group Art Unit 2435 dated December 19, 2008, finally rejecting claims 1-25 and 34-36 (the "Final Office Action"). The final rejection of claims 1-25 and 34-36 is appealed. The Commissioner is hereby authorized to charge Deposit Account No. 20-0782/NVDA/P000736/SW for any fees necessary to make this Appeal Brief timely and acceptable to the Office.

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Real Party in Interest

The present real party in interest is NVIDIA Corporation, a corporation of the State of Delaware, having a place of business at 2701 San Tomas Expressway, Santa Clara, CA 95050.

Related Appeals and Interferences

Applicant asserts that no other appeals or interferences are known to the Applicant, the Applicant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

Claims 1-25 and 34-36 are pending in the application. Claims 1-33 were originally presented in the application. Claims 26-33 are cancelled. Claims 1-25 and 34-36 stand finally rejected as discussed below. The final rejections of claims 1-25 and 34-36 are appealed. The pending claims are shown in the attached Claims Appendix.

Status of Amendments

All claim amendments prior to and including the Final Office Action have been entered by the Examiner.

Summary of Claimed Subject Matter

Claimed embodiments include a method of protecting digital content (*see, e.g.*, claims 1-6 and 34-36) and a device for protecting digital content (*see, e.g.*, claims 7-25).

Claim 1 recites a method of protecting digital content. As claimed, the method includes the steps of (i) providing digital content organized by frames to a rendering unit, (ii) altering image content within the rendering unit in response to tags in a data stream provided thereto, wherein the image content is a portion of the digital content visible to a viewer, and the alterations of the image content are not visually perceptible for real-time display, but are visually perceptible in a recorded version thereof, the step of altering image content further including detecting one of the tags in the data stream associated with a frame in a sequence of frames, a portion of the frame being modified from a preceding frame in the sequence to generate an altered frame, and (iii) utilizing the tag to access an action table to cause the altered frame to be displayed and the sequence of frames to be displayed as unaltered only if called for by the action table.

The limitation of providing digital content organized by frames to a rendering unit is supported in *Application*, paragraphs [0029]-[0030], digital information 304 and RU 303 of Figure 3, and digital information 404 and RU 403 of Figure 4. The limitation of altering image content is supported in *Application*, paragraphs [0031]-[0033] and Figures 5A through 5E that illustrate a sequence of frames of an image and altered variations of the image. The limitation of altering image content within the rendering unit in response to tags in a data stream provided thereto is supported in *Application*, the fourth sentence of paragraph [0034] and image info./commands 601 of Figure 6. The limitation that the alterations of the image content are not visually perceptible for real-time display, but are visually perceptible in a recorded version thereof is supported in *Application*, the last sentence of paragraph [0047]. The limitation of utilizing the tag to access an action table to cause the altered frame to be displayed and the sequence of frames to be displayed as unaltered only if called for by the action table is supported in *Application*, the last sentence of paragraph [0035], the first two sentences of paragraph [0036], and the first four sentences of paragraph [0055] that describe Figures 10A and 10B.

An important aspect of Appellants' invention is that digital content viewed in real-time appears to viewers to without alterations while a recorded version of the content, appears to viewers with alterations.

Claim 7 recites a device for protecting digital content. As claimed, the device includes (i) a rendering unit configured to detect tags in a data stream and to associate the detected tags with commands for altering image content, wherein the image content is a portion of the digital content visible to a viewer, and the alterations of the image content are not visually perceptible for real-time display, but are visually perceptible in a recorded version thereof, the rendering unit including a tag detector for detecting the tags in the data stream, one of the tags being associated with one frame in a sequence of frames, a portion of the one frame being altered from a preceding frame in the sequence to generate an altered frame and (ii) an action table that is accessed utilized to cause the altered frame to be displayed or the sequence of frames to be displayed as unaltered only if called for by the action table.

The limitation of a rendering unit configured to detect tags in a data stream and including a tag detector for detecting the tags in the data stream is supported in *Application*, paragraph [0034], and element 600 of Figure 6. The limitation that the alterations of the image content are not visually perceptible for real-time display, but are visually perceptible in a recorded version thereof is supported in *Application*, the last sentence of paragraph [0047]. The limitation of the rendering unit associating the detected tags with commands for altering image content, is supported in *Application*, the last two sentences of paragraph [0035], the first two sentences of paragraph [0036], and Figure 7. The limitation of one of the tags being associated with one frame in a sequence of frames, a portion of the one frame being altered from a preceding frame in the sequence to generate an altered frame is supported in *Application*, paragraph [0052] and Figures 5A through 5E that illustrate a sequence of frames of an image and altered variations of the image. The limitation of an action table is supported in *Application*, element 704 of Figures 7, 7A, and 8. The limitation of an action table that is accessed utilized to cause the altered frame to be displayed or the sequence of frames to be displayed as unaltered only if called for by the action table is supported in *Application*, the last sentence of paragraph [0035], the first two sentences of paragraph

[0036], and the first four sentences of paragraph [0055] that describe Figures 10A and 10B.

An important aspect of Appellants' invention is that digital content appears to viewers without alterations when viewed in real-time while a recorded version of the digital content appears to viewers with alterations.

Grounds of Rejection to be Reviewed

1. Claims 1-25 and 34-36 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.
2. Claims 1-25 and 34-36 stand rejected under 35 U.S.C. §103(a) as unpatentable over Ryan (U.S. 6,374,036) in view of Fukushima (U.S. 6,388,638) and in further view of Gonzales (U.S. 2007/0005795).

ARGUMENT

Rejection of Claims 1-25 and 34-36 under §112, First Paragraph

The Examiner alleges that the limitation of “a portion of the frame being modified from a preceding frame in the sequence,” recited in claims 1 and 7, is not disclosed in the specification. However, Applicants content that, as recited, the term “a portion,” is entirely consistent with the dictionary definition, “[a] section or quantity within a larger thing; a part of a whole” (see *The American Heritage® Dictionary of the English Language, Fourth Edition*. Retrieved October 06, 2008, from Dictionary.com website: <http://dictionary.reference.com/browse/portion>).

Figures 5A through 5E illustrate an image for a sequence of frames that is described in paragraph [0032] of the specification as originally filed. “Image 500 of Figure 5A includes a picture 501, a desk 502, a person 503 and a filing cabinet 504.” The filing cabinet 504 is a portion of the frame shown in Figure 5A. As shown in Figure 5B and described in the fourth sentence of paragraph [0032], “a part of the scene,” specifically, the filing cabinet 504, is removed “in a next or subsequent frame in the sequence of frames.” As would be very clear to someone skilled in the art, a portion of the frame in Figure 5B is modified from the preceding frame in the sequence, the frame in Figure 5A, to remove the filing cabinet 504. Therefore, Figures 5A and 5B and paragraph [0032] provide support for the limitation recited in claims 1 and 7, “a portion of the frame being modified from a preceding frame in the sequence...”

Similarly, a portion of the frame in Figure 5C is modified from the frame of Figure 5A or 5B. Specifically, the portion of the frame including person 503 is modified from the preceding frame in the sequence of frames to remove person 503. Again, one skilled in the art would readily see that, a portion of the frame in Figure 5C is modified from a preceding frame in the sequence, the frame in Figure 5A or 5B, to remove the person 503. Figure 5C also provides support for the limitation recited in claims 1 and 7, ““a portion of the frame being modified from a preceding frame in the sequence...”

Finally, a portion of the frame in Figure 5D is modified from the frame of Figures 5A, 5B, or 5C, providing further support for the limitation recited in claims 1 and 7, “a portion of the frame being modified from a preceding frame in the sequence...” Specifically, the portion of the frame shown in Figure 5D including text message 511

and character 512 is modified from the preceding frame (shown in Figure 5C) in the sequence of frames to insert the text message 511 and character 512 into the frame shown in Figure 5D. Once again, a portion of the frame in Figure 5D is modified from a preceding frame in the sequence, the frame in Figure 5A, 5B, or 5C, to insert the text message 511 and character 512. As described in paragraph [0039] of the application, as originally filed, tags may be used to simultaneously cloak (remove) image content and insert image content with respect to the same frame, providing further support for the recited limitation, “a portion of a frame being modified.”

For the foregoing reasons, Applicants respectfully request that the §112 rejections of the pending claims be withdrawn.

Obviousness of Claims 1-25 and 34-36 over Ryan, Fukushima, and Gonzales

Claims 1 and 7 recite the limitations of (i) altering image content within the rendering unit in response to tags in a data stream provided thereto, wherein the image content is a portion of the digital content visible to a viewer, and (ii) the alterations of the image content are not visually perceptible for real-time display, but are visually perceptible in a recorded version thereof. Each of Ryan, Fukushima, and Gonzales fails to teach or suggest these limitations.

As set forth in Figures 10A-B and 11A-B as well as in paragraphs [0055] and [0056] of the present application, digital content may be viewed both in real-time and as recorded. In real-time, the digital content appears to viewers to be unaltered (as shown in Figure 10A, for example) such that the viewing experience is not impacted. However, when viewing a recorded version of the content, the digital content appears with alterations. For example, the digital content may include additional objects (as shown in Figure 10B and described in paragraph [0055] of the specification). Portions of the digital content may be cloaked or distorted according to different content ratings (see paragraph [0043] of the specification). Importantly, portions of the image content appear unaltered when viewed in real-time and the portions of the image content appear altered in a recorded version. As set forth above, claims 1 and 7 clearly recite these limitations.

In contrast to the claimed approach, Ryan teaches a “copy once” mechanism that allows no copy or only a single recording of digital content. In order to enable recording of no copy or only a single copy of video content, frame markers are inserted into the

video signal. However, the image content that is visible to a viewer of an authorized recorded version of the original digital content is unaltered compared with the original digital content. In fact, as recognized by those skilled in the art, it is undesirable for portions of the recorded content that are visible to a viewer to differ from the original video frames. Copy protection mechanisms are normally designed such that they do not interfere with producing an exact copy of the image content. Ryan does not teach or suggest anything to the contrary. In fact, Ryan teaches that it is desirable to minimize the visibility of the inserted tag signal in the single authorized recorded copy.

Ryan teaches a first technique for inserting the frame markers (see col. 3, lines 18-22) and modifying four attribute bits of a watermark (see col. 8, lines 30-41). The Examiner interprets this disclosure as teaching “altering image content.” While Ryan teaches altering the image content by inserting field markers, Ryan fails to teach or suggest that the alterations of the image content are visually perceptible in a recorded version thereof, as explicitly recited in claims 1 and 7. To the contrary, Ryan clearly teaches that “the field marker is typically inserted in the invisible portion of the active video, i.e., with regard to television sets in the overscan region” (see col. 3, lines 59-63 and col. 7, lines 40-43). Ryan also states that it is important to minimize visibility of the inserted tag signal (see col. 15, lines 39-42). Ryan simply does not teach or suggest that alterations of the image content are visually perceptible in a recorded version.

Furthermore, Ryan describes a recording device that copies video frames after determining a recordation of a copy is authorized (see col. 4, lines 59-63 and col. 6, lines 6-14). Since the recording has been authorized, the copy matches the original; thus, any alterations resulting from the insertion of the field marker are not visually perceptible in the recorded version. In fact, in such situations, Ryan teaches that the inserted field markers are deleted in the recorded copy (see col. 6, lines 17-20). When the recording is not authorized, Ryan teaches that no copy is generated, so there is no recorded version that can be visually perceived by a viewer. Therefore, Ryan’s approach does not alter image content in a recorded version so that the alterations of the image content are visually perceptible to a viewer, as recited in claims 1 and 7.

In addition, with regard to claims 1 and 7, the Examiner relies on Gonzales only for the teaching of an action table. Gonzales teaches changing the content of displayed video in real-time, “while the scene is being viewed,” (see paragraph [0032]). The

Examiner relies on Fukushima only for teaching that the alterations of the digital content are not visually perceptible for real-time display. Fukushima teaches that performing display calculations in real time is difficult and teaches a technique for producing a natural display in real time in correspondence with the movement of an observer's head (see col. 2, lines 25-29). Gonzales and Fukushima are each silent regarding whether or not alterations of the image content are visually perceptible in a recorded version of the digital content, therefore Gonzales and Fukushima each fail to cure the deficiencies of Ryan set forth above. In contrast with the claimed approach, the combined teachings of Ryan Gonzales, and Fukushima results in a system where portions of image content appear unaltered in a recorded version.

Ryan is silent regarding whether or not alterations of the image content are visually perceptible when viewed in real-time. In contrast, Gonzales teaches changing the content of displayed video so that the alterations can be visually perceived in real-time. Fukushima teaches providing images in real-time based on the movement of an observer's head. Fukushima and Gonzales each fail to teach or suggest that the alterations of the image content are not visually perceptible for real-time display, as recited in claims 1 and 7, thereby failing to cure the deficiencies of Ryan set forth above. In contrast with the claimed approach, the combined teachings of Ryan, Gonzales, and Fukushima results in a system where portions of image content appear altered when viewed in real-time. In sum, the teachings of Ryan, Gonzales, and Fukushima contradict the limitations recited in claims 1 and 7 with regard to image content viewed in real-time and image content in a recorded version.

As the foregoing illustrates, no combination Ryan, Fukushima, and Gonzales can render claims 1 and 7, or the claims dependent thereon, obvious.

Additionally, claim 3 recites the limitation of removing an object visible to the viewer from a frame. Ryan explains that an attempt by a hacker to bypass the copy-once authorization mechanism will "seriously degrade the entertainment value of the program" (see col. 7, lines 10-17). A statement that human attempts to modify the authorization mechanism taught by Ryan does not rise to the level of a teaching or suggestion that an object visible to the viewer is removed from a frame by a rendering unit in response to tags in a datastream. Therefore, the subject matter of claim 3 is allowable for this additional reason.

Claims 4 and 5 recite the limitations of relocating an object and adding an object, where the object is visible to the viewer. Ryan describes computing an attribute value by adding and subtracting voltage values for regions of video frames (see col. 7, lines 18-20). Computation of the attribute value does not alter the image (see col. 5 lines 14-29). Nowhere does Ryan teach or suggest removing an object visible to a viewer from a frame. Thus, claims 4 and 5 are also allowable for this additional reason.

Claim 8 recites the limitations of the rendering unit including a table for storing symbols used when associating the detected tags with the commands. Ryan describes comparing a measured attribute to the 4 extracted attribute bits to enable recording (see col. 6, lines 28-38). Ryan fails to teach or suggest a table for storing symbols. Gonzales and Fukushima fail to provide any teaching or suggestion of the limitation recited in claim 8. Therefore, the subject matter of claim 8 is allowable for this additional reason.

Claim 9 recites the limitations that the rendering unit comprises memory for storing overlays for alteration of the image content. Ryan describes circuitry “to change the copy-once bit to the copy-never value during recording,” (see col. 6, lines 39-42). Ryan fails to teach or suggest memory for storing overlays. Gonzales and Fukushima fail to provide any teaching or suggestion of the limitation recited in claim 9. Therefore, the subject matter of claim 9 is allowable for this additional reason.

Claim 12 recites the limitation that the rendering unit comprises a decryptor. The Examiner relies on Ryan’s description that a hacker may attempt to bypass the authorization mechanism and manually “decode” the watermark for disclosing a rendering unit that comprises a decryptor (see col. 6, lines 48-50). Decoding of the watermark is performed by extracting the attribute value from the watermark (see Ryan col. 6, line 2). Nowhere does Ryan teach or suggest that the rendering unit includes a decryptor or that the rendering unit performs decryption. Gonzales and Fukushima also fail to provide any teaching or suggestion of the limitation recited in claim 12. Therefore, the subject matter of claim 12 is allowable for this additional reason.

Claim 14 recites the limitations of the rendering unit detecting watermarks and providing a graphical user interface in response to at least one detected watermark. Gonzales describes a computing device providing “a user interface into the virtual computing network.” The user interface of Gonzales is not provided in response to

detection of a watermark (see paragraphs [0426]-[0427]). Gonzales fails to teach or suggest the limitation recited in claim 14. Ryan and Fukushima also fail to provide any teaching or suggestion of the limitation recited in claim 14. Therefore, this claim is also in condition for allowance.

Claim 15 depends from allowable claim 14 and recites an additional limitation associated with the graphical user interface, specifically that the graphics user interface is provided after “detecting a threshold number of watermarks.” The user interface of Gonzales is not provided in response to detection of a watermark. Gonzales fails to teach or suggest the limitation recited in claim 15. Ryan and Fukushima also fail to provide any teaching or suggestion of the limitation recited in claim 15. Therefore, this claim is also in condition for allowance.

Claim 16 depends from allowable claim 15 and recites an additional limitation that the graphics user interface “provides a data entry block for entry of a key.” Gonzales fails to teach or suggest the limitation recited in claim 16. Ryan and Fukushima also fail to provide any teaching or suggestion of the limitation recited in claim 16. Therefore, this claim is also in condition for allowance.

Claim 17 recites the limitation that the rendering unit is configured to down sample in response to a failure to enter an acceptable key. The Examiner relies on Ryan’s teaching of a watermark detector/verifier for disclosure of this limitation (see col. 6, lines 25-29). Nowhere does Ryan teach or suggest downsampling in response to a failure to enter an acceptable key. Gonzales and Fukushima also fail to provide any teaching or suggestion of the limitation recited in claim 17. Therefore, this claim is also in condition for allowance.

Claim 18 recites the limitation that the rendering unit is configured to disable recording in response to a failure to enter an acceptable key. Ryan describes disabling recording when a computed attribute fails to match an extracted attribute (see col. 4, lines 62-64). Nowhere does Ryan describe disabling recording in response to failure to enter an acceptable key. Gonzales and Fukushima also fail to provide any teaching or suggestion of the limitation recited in claim 18. Therefore, this claim is also in condition for allowance.

Claim 19 recites the limitation that the rendering unit is configured to randomly alter the selected frames in response to enter an acceptable key. Ryan describes

randomly choosing frames for the attribute calculation (during encoding) (see col. 3, lines 15-18). As previously explained, computation of the attribute does not alter the image. Ryan fails to teach or suggest randomly altering selected frames. Gonzales and Fukushima also fail to provide any teaching or suggestion of the limitation recited in claim 19. Therefore, this claim is also in condition for allowance.

Claim 36 recites the limitations of invoking a graphical user interface in response to detection of the tag, to allow a user to enter a key to prevent the action table from being accessed. Gonzales describes a computing device providing “a user interface into the virtual computing network.” The user interface of Gonzales is not provided in response to detection of a tag (see paragraphs [0426]-[0427]). Gonzales fails to teach or suggest the limitation recited in claim 36. Ryan and Fukushima also fail to provide any teaching or suggestion of the limitations thereby placing this claim into condition for allowance.

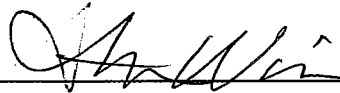
For the aforementioned reasons, all of the claims currently pending in the application are therefore patentable over Ryan, Fukushima, and Gonzales. In view of these clear distinctions, reconsideration and allowance of all the claims is respectfully requested.

CONCLUSION

The Examiner errs in finding that:

- Claims 1-25 and 34-36 are unpatentable for failing to comply with the written description requirement.
- Claims 1-25 and 34-36 are unpatentable over Ryan in view of Fukushima and Gonzales.

Respectfully submitted,



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CLAIMS APPENDIX

1. (Previously Presented): A method for protecting digital content, comprising:
 - providing digital content organized by frames to a rendering unit;
 - altering image content within the rendering unit in response to tags in a data stream provided thereto, wherein the image content is a portion of the digital content visible to a viewer, and the alterations of the image content are not visually perceptible for real-time display, but are visually perceptible in a recorded version thereof,
 - the step of altering image content further including detecting one of the tags in the data stream associated with a frame in a sequence of frames, a portion of the frame being modified from a preceding frame in the sequence to generate an altered frame;
 - and
 - utilizing the tag to access an action table to cause the altered frame to be displayed and the sequence of frames to be displayed as unaltered only if called for by the action table.
2. (Original): The method, according to claim 1, wherein the step of altering comprises randomly selecting frames for alteration.
3. (Previously Presented): The method, according to claim 1, wherein altering comprises removing at least one object visible to the viewer from a frame.
4. (Previously Presented): The method, according to claim 1, wherein altering comprises relocating at least one object visible to the viewer in a frame.
5. (Previously Presented): The method, according to claim 1, wherein altering comprises adding at least one object visible to the viewer to a frame.
6. (Original): The method, according to claim 5, wherein the rendering unit is a graphics processing unit.
7. (Previously Presented): A device for protecting digital content, comprising:

a rendering unit configured to detect tags in a data stream and to associate the detected tags with commands for altering image content, wherein the image content is a portion of the digital content visible to a viewer, and the alterations of the image content are not visually perceptible for real-time display, but are visually perceptible in a recorded version thereof, the rendering unit including a tag detector for detecting the tags in the data stream, one of the tags being associated with one frame in a sequence of frames, a portion of the one frame being altered from a preceding frame in the sequence to generate an altered frame; and

an action table that is accessed utilized to cause the altered frame to be displayed or the sequence of frames to be displayed as unaltered only if called for by the action table.

8. (Original): The device, according to claim 7, wherein the rendering unit includes a table for storing symbols used when associating the detected tags with the commands.

9. (Original): The device, according to claim 8, wherein the rendering unit comprises memory for storing overlays for alteration of the image content.

10. (Original): The device, according to claim 8, wherein the rendering unit comprises a random number generator for randomly selecting when to apply the commands.

11. (Original): The device, according to claim 10, wherein the random number generator randomly selects when to apply overlays.

12. (Original): The device, according to claim 10, wherein the rendering unit comprises a decryptor.

13. (Original): The device, according to claim 10, wherein the rendering unit is configured to detect watermarks and to alter image frames in response to detected watermarks.

14. (Original): The device, according to claim 10, wherein the rendering unit detects watermarks and provides a graphical user interface in response to at least one detected watermark.

15. (Original): The device, according to claim 14, wherein the graphical user interface is provide after detecting a threshold number of watermarks.

16. (Original): The device, according to claim 15, wherein the graphical user interface provides a data entry block for entry of a key.

17. (Original): The device, according to claim 16, wherein the rendering unit is configured to down sample in response to a failure to enter an acceptable key.

18. (Original): The device, according to claim 16, wherein the rendering unit is configured to disable recording in response to a failure to enter an acceptable key.

19. (Original): The device, according to claim 16, wherein the rendering unit is configured to randomly alter the selected frames in response to a failure to enter an acceptable key.

20. (Original): The device, according to claim 10, wherein the device is a digital video camera.

21. (Original): The device, according to claim 10, wherein the device is a digital video disc recorder.

22. (Original): The device, according to claim 10, wherein the device is a compact disc recorder.

23. (Original): The recording device, according to claim 10, wherein the device is a hard disk drive recorder.

24. (Original): The device, according to claim 10, wherein the device is a digital tape drive recorder.

25. (Original): The device, according to claim 10, wherein the device is a floppy disk drive recorder.

26. - 33. (Cancelled)

34. (Previously Presented): The method of claim 1 wherein a rendering unit causes display of the altered frame upon detection of the tag unless a proper response is entered.

35. (Previously Presented): The method of claim 34 including the step of applying the tag to a randomizer to randomly apply or ignore the tag or send the tag to the action table.

36. (Previously Presented): The method of claim 1 including the step of, in response to the detection of the tag, invoking a graphical user interface (GUI) to allow a user to enter a key to prevent the action table from being accessed so that the unaltered frames are not displayed.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None